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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,651	02/06/2004	David M. Oliver	RSW920030179US1	8803
23307 7590 08/23/2007 SYNNESTVEDT & LECHNER, LLP 1101 MARKET STREET 26TH FLOOR PHILADELPHIA, PA 19107-2950			EXAMINER SCUDERI, PHILIP S	
			ART UNIT 2153	PAPER NUMBER
			MAIL DATE 08/23/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/774,651	Applicant(s) OLIVER ET AL.	
	Examiner Philip S. Scuderi	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over MSN

Instant Messenger Protocol (printed from hypothetic.org, 23-27 April 2002, herein "MSN").

As to claims 1, 8, and 15, MSN teaches a method, system, and program for activating a device connectable to an IP-based network, comprising the steps of, means for, and code for:

sending an activation (email notification) message to said device over an IP-based messaging protocol (MSN messenger protocol) [see Connecting section, page 4, which shows an "example of a new email [notification] being received" by an MSN client].

MSN does not expressly state that the client is a non-SMS device. However, nowhere does MSN teach or suggest that the protocol is in any way limited to SMS devices. It would have been obvious to one of ordinary skill in the art to use the MSN protocol on a well-known non-SMS device such as a personal computer. The motivation for doing so would have been to utilize any of the advantages of the MSN protocol such as the ability to chat with other users and receive new email notifications.

As to claims 2, 9, and 16, MSN teaches that the activation message (email notification message) includes an SIA message identifier (msg=MSG1029401739.3 sent by the notification server) [see Connecting section, page 4].

As to claims 4, 11, and 18, MSN teaches that the IP-based messaging protocol comprises a chat protocol (MSN Instant Messenger Protocol) [see Messaging section, pages 5-6, which shows users chatting with each other].

As to claims 3, 7, 10, 14, 17, and 21, MSN teaches that the activation message (email notification message) further includes an initiation command (Message-URL and Post-URL) [see Connecting section, page 4].

One of ordinary skill in the art would appreciate that the initiation command (Message-URL and Post-URL) are clearly intended to initiate access an email message (the email from Mike Mintz) [see Connecting section, page 4].

MSN does not expressly disclose that the client receiving the command (Message-URL and Post-URL) initiates the command (Message-URL and Post-URL) to access the email message (the email from Mike Mintz), as set forth in claims 3 and 10. Also, MSN does not disclose launching of a program on the non-SMS device to download email via the IP-based network, as set forth in claims 7 and 14.

It would have been obvious to one of ordinary skill in the art to initiate the command (Message-URL and Post-URL) to access the email message (the email from Mike Mintz) [see Connecting section, page 4] using a well-known browser program such as Internet Explorer. The motivation for doing so would have been to access the contents of the email message.

As to claims 5, 6, 12, 13, 19, and 20, MSN does not expressly disclose that the non-SMS device client provides an alert or indication that there is a new email available over the IP-based network.

Providing the command (Message-URL and Post-URL) to a well-known browser program such as Internet Explorer, as detailed above, is an indication to the browser and/or the user that there is email available for download.

It would have been obvious to one of ordinary skill in the art provide the command (Message-URL and Post-URL) to a well-known browser program such as Internet Explorer. The motivation for doing so would have been to access the contents of the email message.

As to claims 22 and 26, MSN teaches receiving messages containing a Content-Type field that identifies the type of message, wherein the type of message can be an SIA chat message (an email notification) (text/x-msmsgsemailnotification) or a textual message from another user (text/plain) [see Messaging section, pages 5-6; Connecting section, page 4]. But, MSN does not appear to expressly disclose identifying the SIA chat messages (email notification messages). One of ordinary skill in the art would readily recognize that the purpose of the Content-Type field is to enable the client to identify the type of content being received. It would have been obvious to one of ordinary skill in the art to identify the SIA chat messages (the email notification message) in order to properly process the incoming message content.

MSN does not expressly disclose blocking display of an SIA chat message (an email notification message). But, one of ordinary skill in the art would readily recognize that the SIA chat messages (email notifications) are not intended to be displayed because the textual messages that are

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intended to be displayed have a Content-Type field value set to “text/plain” [see Messaging section, pages 5-6]. It would have been obvious to one of ordinary skill in the art to block standard display of the SIA chat messages (email notification messages) to comply with the intended use of the protocol.

MSN teaches that there are instructions (Message-URL and Post-URL) contained in said SIA chat messages (email notifications) [see Connecting section, page 4]. But, MSN does not expressly disclose executing these instructions. One of ordinary skill in the art would readily recognize that the instructions (Message-URL and Post-URL) were intended to retrieve an associated email. It would have been obvious to one of ordinary skill in the art to execute the instructions (Message-URL and Post-URL) using a known browser to retrieve the email.

MSN does not expressly state that the client is a non-SMS device. However, nowhere does MSN teach or suggest that the protocol is in any way limited to SMS devices. It would have been obvious to one of ordinary skill in the art to use the MSN protocol on a well-known non-SMS device such as a personal computer. The motivation for doing so would have been to utilize any of the advantages of the MSN protocol such as the ability to chat with other users and receive new email notifications.

As to claims 23-25, executing the instructions (Message-URL and Post-URL) using a browser is an action that alerts that indicates receipt of the email by the server and automatically connects the non-SMS device to the server.

Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Admitted Prior Art in the Background section of the Specification (herein "APA") in view of U.S. Patent No. 7,024,209 to Gress et al. (herein "Gress").

As to claims 1-21, the APA admits that substantial claimed features such as notifying an SMS device of the arrival of a new email by sending an SIA activation message to the device, waking-up the device, and downloading the email on the device were well known in the art [see Specification, paragraph 2]. The only apparent difference between the APA and these claims is that the claims specify that the device is a non-SMS device.

Gress teaches a system for converting SMS messages into a unified format and sending the messages to non-SMS devices [see Gress, abstract]. It would have been obvious to one of ordinary skill in the art to utilize Gress' system to receive the SIA activation message and retrieve the email accordingly because Gress' system provides advantages such as enabling non-SMS type devices to access SMS messages and fulfilling the need for a unified messaging system [see Gress, abstract, col. 2, ll. 1-14].

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip S. Scuderi whose telephone number is (571) 272-5865. The examiner can normally be reached on Monday-Friday 9:00 am - 5:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B. Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PS



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